BOOK REVIEWS

SLATER'S MERCANTILE LAW IN AUSTRALIA

Third Edition by K. D. Hilton, LL.B., F.A.S.A., A.C.I.S., 1958.
Sir Isaac Pitman & Sons Ltd., xxii and 552 pp. £1-12-6.

Slater's *Mercantile Law in Australia* is written expressly to cover the syllabus of the Australian Society of Accountants examination. The problem, therefore, of deciding which topics shall be included in the book is not really a matter within editorial discretion. Indeed, a chapter on bankruptcy has been added in this edition 'for the specific purpose of complying with the syllabus of the Australian Society of Accountants'.[1] However, although the editor cannot be held responsible, it is strange to find such matters as the law of landlord and tenant and of executors and trustees included under the rubric of Mercantile Law. Moreover, in this edition, the law of executors and trustees occupies fifty-one pages, which is more space than is devoted to any other topic in the book, with the exception of the law of contract. The examination syllabus may require that the subject be dealt with, but surely not at the expense of other matters whose relevance to the subject of Mercantile law is rather greater than that of the law of executors and trustees. Thus the law of carriage by land and sea, which is dealt with in this edition in twenty-two pages, warrants some expansion. At the other extreme, however, the law of landlord and tenant is dealt with in eight pages, and the law of mortgages in four. Whether it is possible to say anything of any value on these subjects in so short a space may be doubted. It would certainly be a masterpiece of succinct and concise exposition if it did, but reading through the relevant chapters of this edition I am inclined to doubt whether they reach these heights.

In structure the book consists of a series of more or less dogmatically stated propositions supported by case citations. There is little attempt at analysis, and on the few occasions on which it is attempted it is not very successful. The opening chapter on the 'Elements of Contract' provides a good example. Having stated that 'a contract is composed of various legal ingredients which go to form the substance of it' the editor adds:[2]

> The ingredients do not, however, make the thing itself; they only go to form the body of it. In every composite construction there is a main idea which is to be evolved out of the elements which form it. In this instance the main idea is the formation of a contract.

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[1] At p. v.
[2] At p. 1.

The meaning of this paragraph escapes me. However, having defined a contract as 'an agreement enforced by the law' the editor extracts four 'main ideas' which he lists as:[3]

(a) Agreement.
(b) Legally binding—that is, one which will be dealt with by the courts.
(c) Two or more persons.
(d) An obligation.

This rather strange analysis assumes a more familiar appearance when, on reading further, one discovers that by 'legally binding' is really meant intention to create legal relations and that by 'an obligation' is meant simply consideration. This type of thing cannot be considered as analysis of a very high order.

Apart from a few such excursions into analysis the book keeps fairly firmly to the technique of dogmatic exposition backed up by simple case citations. Taken as a whole the book cites some 800 cases. In point of fact these achieve very little, for the book is primarily designed for students of accountancy and other commercial subjects, and the vast majority of such students do not have access to a law library and are therefore quite unable to consult the cases cited. It is really quite useless for an author to state what he considers to be a proposition of law and simply to follow it with a case citation if the student does not know the facts of the case and the circumstances under which it was decided. To take an example at random, we read in a section devoted to revocation of offer in contract:[4]

> Revocation does not take effect until it is actually brought to the knowledge of the offeree — *Curtice v. L. C. & M. Bank* [1908] 1 K.B. 293.

In point of fact the decision in *Curtice v. L. C. & M. Bank* is an authority for the proposition that, under the circumstances of that case, the cheque in question was not countermanded within the meaning of the Bills of Exchange Act s. 75, with the court further suggesting that a banker is not bound to accept an unauthenticated telegram as sufficient authority to refuse payment of a cheque. Just what this has to do with revocation of offer in contract I am at a loss to know.

In writing for law students it may be expected that case references will be checked, but this cannot be assumed with accountancy students, and in such a case the mere multiplication of citations achieves but little. Assuming a two-year course of study, it seems rather unreasonable to expect a student, whose principal field of study is not law, to cope with 400 cases a year, whilst if he is not expected to cope with them there is little point in citing them.

The real culprits, however, are not those who produce books such as this, but the professional bodies who control the examinations which make the appearance of such works inevitable. For far too long now mercantile

[3] At pp. 1-2.
[4] At p. 12.

law, as taught for commercial professional examinations, has retained a traditional and obsolete syllabus which seems to have been drawn up with very little thought regarding either the object in teaching mercantile law to commercial students or the results which are expected. The syllabus, as it now stands, places a premium on the memorisation of a large number of superficial rules with neither room nor time for an adequate discussion of principle. The law, however, does not consist of a series of dogmatic propositions or rules. It is essentially a method and to be taught successfully breadth of coverage must be sacrificed to depth of treatment whether one is concerned with students of law or accountancy.

Whilst the present system lasts text-books adapted to current conditions must be available to students, and the work under review is certainly one of the better examples of an attempt to cope with an almost impossible situation—but how much longer must we suffer under such an antiquated regime? The problems of legal education so far as they relate to law students have been discussed long and earnestly, and many improvements have been introduced over the years. The problems of teaching law to students of accountancy and other commercial subjects, which are quite different problems from those which arise in relation to law students, have been ignored for far to long. It was really time that some thought was given to this matter, and it is surely the professional bodies themselves that should undertake this task.

It should perhaps be added that this edition seems to bear no obvious relationship to the current edition of Slater's *Mercantile Law* as published in the United Kingdom. This is a misfortune, for an Australian adaption of the English work would serve the needs of accountancy students rather better than the work under review. In particular, the incursions into the analytical field, as they appear in the English edition, are much more satisfactory. One feature of the English edition which could be followed with advantage in the Australian work is the setting out of a number of the cases cited as 'illustrations' in the form of abridged headnotes. This practice, whilst hardly acceptable in a standard legal text, possesses undoubted advantages when used in legal works intended essentially for students of accountancy and commerce.

G. W. Bartholomew.

CASES ON TRUSTS

By H. A. J. FORD, LL.M. (Melb.), S.J.D. (Harv.)

1959. Sydney: The Law Book Co. of Australasia Pty Ltd., xvi and 794 pp. £4-15-0.

THE LAW OF TRUSTS IN NEW SOUTH WALES

By K. S. JACOBS, B.A., LL.B.

1958. Sydney: Butterworth & Co. Ltd., lxviii and 548 pp. £5-17-6.

In a field of law which is often incorrectly treated by the practitioner as esoteric—or at least as the domain of experts only—it is stimulating to find two new Australian publications. The emphasis lies on the word 'Australian'. For too long the student in this field has been limited to

English material presented with an English bias, and Snell's *Principles of Equity*, which, though it contains some Australian material other than in an Australian supplement, can hardly be described today as either modern or comprehensive.

Neither of these new books attempts to deal with 'principles of equity'. These principles are well established and adequately dealt with in the standard English text-books. It is with the growing and living aspect of equity—the law of trusts—that these books are concerned.

Dr. Ford's work has a strong historical flavour. There is a tendency to commence chapters with material which is primarily of historical interest, material which does great service in placing the subject matter of the chapter in an historical context though not in an immediate logical framework. The book itself commences with five pages of 'Historical Background' calculated to assist the student in understanding the origin of the difficult concept of the trust. When this core of historical fact is established the logical framework is then in many cases built around it.

To a certain extent the weighting of the various sections in surprising. Thus, for example, the section dealing with 'Duties of Trustees' takes up 106 pages, while the 'Powers of Trustees' are dealt with in six pages. It is true that the powers of trustees are neither as varied nor as complex as the duties of trustees and are dealt with more fully by statute. Nevertheless, the discrepancy does seem great, especially when fifteen pages are devoted to the distinction between trust and agency.

This criticism, however, is a minor one when compared with the quality of the work as a whole. One very pleasing feature is the inclusion of the Rules Against Perpetuities in a general chapter dealing with 'Limitations on Settlor's Power of Disposition'. This serves to place both the rule against remoteness of vesting and the rule against inalienability in their proper setting together with other rules of law and public policy which oppose the creation of certain types of trust.

This section also provides a good illustration of the helpful comments with which Dr. Ford has liberally endowed the book. In this case, as in others, the author's personal contribution ceases to be a mere comment on, or note appended to, the cases quoted and becomes a genuine short article standing on its own feet and of its own merits.

There is an emphasis on Australian cases, but not an unwarranted emphasis. All the leading English cases are noted or referred to, but so also are the Australian. This is what makes the book so valuable: it does contain the leading Australian authorities as well as those of the United Kingdom. In that sense it is for the Australian student (or practitioner) complete in a way that no English work can hope to be.

This is not, however, its only claim to completeness, for, although it is possible to find fault with the space devoted to the various topics, it is difficult to quarrel with the book's content. As I have said, the book is not concerned with the 'principles' of equity; it is a 'Case Book on Trusts', and as such it seems to me complete.

When I first looked at the Table of Contents eagerly seeking some omission, I thought: 'Ah! he has left out tracing orders!' However, I was disappointed. Our old (though not very old) friend *re Diplock* was nestling quietly in a chapter on 'Consequences of Breach of Trust' under a sub-heading entitled 'Beneficiary's Right to Follow Trust Property'. I had assumed that the section dealt only with the trustee-beneficiary relationship — an unjustified assumption which the event *proved* unjustified.

The comparative statute notation throughout the work is also complete. Wherever statute law is quoted or referred to, it is the United Kingdom legislation which is quoted or referred to (except, of course, in those cases where the statutory provision does not exist in the United Kingdom or is peculiar to a particular jurisdiction). Reference to the equivalent or similar legislation of the Australian States and New Zealand is appended in a footnote.

Dr. Ford's book is complete and invaluable. A painstaking selection of Australian and other material covering, as I see it, every aspect of the law of trusts, it is adequately but not superfluously annotated and commented upon by the author.

Mr. Jacobs treats statute law in a different manner from that employed by Dr. Ford. He sets out at the beginning of his book a comparative table listing equivalent or similar sections in the Acts of the United Kingdom, New Zealand and the various Australian States; at the end of the book he appends the New South Wales Trustee Act, 1925-1942, Dormant Trusts Act, 1942, and Consolidated Equity Rules of 1902 relating to the Trustees Act, 1925; and throughout the work he refers to the relevant New South Wales legislation.

In his preface Mr. Jacobs says: 'Together with an examination of the general principles governing the law of trusts, an attempt has been made to incorporate discussion of the practical problems which face those who undertake the duties of a trustee'.

This attempt, not unsuccessful, to assist both the practitioner and the student has resulted in a certain lack of depth in certain portions of the book. He shows us that if one is concerned with the function and practicabilities of the trust one cannot devote as much attention as perhaps one should to an analysis of its nature and the development of the conceptual.

Very seldom does one find a book of first-class value to both practitioner and student — one of these rare exceptions, it is suggested, is McDonald, Henry and Meek's work on Bankruptcy. This is Mr. Jacobs' main, and perhaps sole, flaw. He has endeavoured to serve two masters. For example, he deals with the 'Nature and Classification of Trusts' in twenty-eight pages. In a work for practitioners this is a valid treatment. In the case of a students' text-book, however, such treatment appears inadequate.

In this case the question of tracing trust property — though of interest to both student and practitioner, is dismissed in eight pages. In that space

Mr. Jacobs deals with the beneficiary's rights against property in the hands of the trustee, in his bank account, invested in his assets or transferred into the hands of a third party. Such a treatment necessarily requires a degree of dogmatism not entirely justified. As with Dr. Ford's case book, I feel that to a large extent the weighting of the book's contents could be greatly improved.

Mr. Jacobs has given us a book for the practitioner. It is arranged in a clear and easily accessible manner, though much of the classification is open to question. It is concise and realistic, and for the practitioner its lack of conceptualism is an asset rather than a liability. For the student also it could be rewarding, treating as it does of the law as it is in Australia, not as our British cousins find it.

P. G. Nash.

COMMONWEALTH PERSPECTIVES

By NICHOLAS MANSERGH *et al.*

1958. Durham, N.C.: Published for the Duke University Commonwealth-Studies Center by Duke University Press, viii and 214 pp. $4.50.

To mistake the object of a publication can lead to harsh and unjust criticism of it, and whilst a presumption probably exists that publications of a university press are intended to be scholarly in the sense that they tread new ground or, to use a popular metaphor, further extend the boundaries of knowledge, that presumption is not irrebuttable. The usual text-book, for example, has as its object the classification and clear exposition of established knowledge for the readier consumption of the student.

Commonwealth Perspectives is a sort of hybrid, though the text-book strain prevails. Although no express purpose is stated, we are told that the essays which comprise the book 'represent revised versions of faculty contributions to a Joint Seminar' the 'broad purpose' of which 'was to provide for a group of graduate students in economics, history, and political science an introduction to Commonwealth problems and to the possibilities for advanced research therein'. It is here assumed that these papers have now been put into a more permanent form in order to serve other prospective postgraduate students in like manner.

The first question which poses itself is: 'How feasible was the achievement of these objects by these means?' Clearly, it is possible within the covers of a single book to provide some sort of introduction to the problems of the Commonwealth and it must be said that, considered simply as introductions to their own topics, Professor Mansergh's contributions on 'Commonwealth Membership' and 'Commonwealth Foreign Policies 1945-56', Professor Godfrey's paper on 'The Emergence of Ghana' and Professor Thomas's on 'The Evolution of the Sterling Area and Its Prospects' seem quite adequate. What is less clear is whether it is feasible to give a general introductory outline and at the same time reveal possibilities for advanced research. It may further be doubted whether, considered simply from the point of view of the revelation of opportunities

for research, a paper on, say, demography, is of great utility to the international lawyer.

If we turn from feasibility to achievement the following points may be made. Firstly, although considered as introductions to the subject with which they deal the papers above referred to will probably be considered satisfactory, the book as a whole appears less successful than it might have been.

There seem to be two main reasons for this. The first is the seemingly arbitrary selection of topics which, in the result, have very little in common. The second is that even in so far as they are inter-related, no attempt is made to 'pool' the knowledge provided, by cross-reference or, preferably, by consultation during writing. Since its possesses neither the merit of a synopsis of the whole Commonwealth or some aspect of it, nor indicates co-ordinated effort by the contributors, it may be felt that the book was not worth publishing. The student could, for example, have been referred to the other works of Mansergh and to the works of, for example, Wheare and Latham in order to be introduced to the emergence of the concept of the Commonwealth and membership of it.

If as a result of these flaws the book is of less value than it might have been, the blame would seem to lie not with the contributors as such, but with the 'planners'. Some of the individual papers might have reached a wider audience to greater purpose and at less expense by publication as journal material. All provide interesting if not always accurately informative reading.

The contributions of Professor Mansergh are of no less a standard than we have come to expect from him, if allowance is made for 'writing down' in order to fulfil the purpose for which they were written. The only major criticism which your reviewer would venture to make is to question his continual acceptance of the myth that the formal legal relations between Commonwealth members determine finally the factual relations. That the psychological effects of legal forms may have some effect is not denied, although one may hesitate before accepting the proposition that the real objections of the Boers were based upon the belief that legal inequality means substantial practical inequality as opposed to resentment at even formal discrimination, or that 'the demand for the definition of intra-Commonwealth relations was . . . inspired by a belief that continuing subordination in form implied an essential subordination in fact'. That Professor Mansergh is not alone in his views is evidenced by Stratford A.C.J. who, in *Ndlwana v. Hofmyr*,[1] gave voice to the dogma that 'freedom once conferred cannot be revoked'. Nevertheless, the anomaly of the myth is seen to its fullest extent in Professor Mansergh's assumption that the freedom of the Dominions was related to the constitutive power of the Imperial Parliament. The English legal doctrine of parliamentary sovereignty carries with it the corollary that Parliament can undo whatever it can do. If one applies this to the task of freeing the

[1] [1937] A.D. 229.

Dominions, it becomes clear that they can subsequently be 'unfreed', *i.e.*, they could not be freed in the first place. This does not mean that the Dominions could never become autonomous. It simply means that the question of their autonomy is an extra-legal one, that their autonomy is a fact and that the important thing is not the legal attitude but the practical attitude of the United Kingdom and the power of the Commonwealth members in relation to her. No better example of the psychological importance but otherwise impotence of legal forms can be found than the description of the status of the Dominions following upon the Imperial Conferences of the 1920's. A creature which is 'autonomous' within the British Empire 'freely associated as a member of the British Commonwealth of Nations' and 'united by a common allegiance to the Crown' with other members is incomprehensible this side of metaphysics.

Professor Mansergh's second paper, on Commonwealth Foreign Policies 1945-56, contains little outside the category of general knowledge. Reference to the Dunkirk Treaty, the Brussels Treaty and the European Defence Community as *committing* the United Kingdom to armed assistance is misleading. The terms of none of these arrangements deprived the United Kingdom of the final say-so, and even apart from this the almost unexceptional practice of nations on the security level is that *pacta non sunt servanda*. Similarly, reference might have been made to the subsequent history of the non-military clauses of the North Atlantic Treaty, for Canada's success in obtaining something different from the old military pacts has been formal rather than substantial.

The essay on 'The Commonwealth and the Law of Nations', by Professor Wilson seems negatively useful as an introduction and positively misleading in some other respects. There certainly are some interesting international law problems posed by the emerging 'statehood' of Commonwealth members and by the concept of a common nationality, and your reviewer feels that Professor Wilson, even if he restricted himself to adverting to them, could have done so more fully and less confusingly. In dealing with nationality, Professor Wilson's reference to the *Joyce* case[2] seems in the first place irrelevant and in the second place inaccurate. If this decision means anything in international law at all, it means not, as Professor Wilson would have it, that 'there may be persons "assimilated" to nationals for certain purposes', but that no international reclamation can arise where the supposedly injured state does not complain. The House of Lords was not really concerned with Joyce's nationality or quasi-nationality but with his duty of allegiance. But even apart from this, a complaint by the U.S.A. might conceivably have succeeded and would in no case be affected by the finding of the House of Lords. Professor Wilson is not alone in his eclectic approach to the problem of sources of international law. This, nevertheless, cannot absolve him from excessive use of municipal sources to answer international-law questions. In dealing with the question: 'Are British subjects who are in the jurisdiction of a Commonwealth state of which they are not citizens

[2] Joyce v. D.P.P. [1946] A.C. 347.

in the full municipal sense, "aliens" in the international-law sense, for the purpose of the international-law rules?,' Professor Wilson relies solely upon the decisions of municipal courts based upon municipal legislation, in jurisdictions where such legislation cannot be struck down because of conflict with international-law. The author realises that 'in all these cases there was strong emphasis upon what the national legislative body had willed'. Does he also realise that this emphasis was exclusive and that in none of the decisions he reports were international law considerations basic? Some judges of the High Court of Australia, in the *Polites* case[3] expressed the opinion that the Regulations there in question might infringe international law, but they were held valid nevertheless.

Other less important points which may be noted are that some will not accept the possibility of a court which is merely an agency for applying the law, as opposed to making it[4]; that to describe the 'pernicious' reservation of the U.S.A. (and that of France as discussed in the Case of Certain Norwegian Loans) as 'potentially more limiting' than the reciprocity clause is excessive understatement as compared with the somewhat harsh treatment[5] of India's 'notice' clause which appears to be more honest and less arbitrary.

Further, we are told that at the time of the Labrador Boundary Dispute 'the Privy Council could be empowered by the British Parliament to settle such a question'. The British Parliament being all-powerful, could and can so empower the Privy Council. But no such empowering is necessary. The Privy Council then had and today has power to hear matters referred to it by the Crown, and the Labrador Boundary Dispute was, in fact, so referred at the request of the Dominions concerned.

Nevertheless, the main criticism of Professor Wilson's essay must be its failure to come to grips with the issues involved. We are informed, out of the blue, that:

> It is reasonable to surmise, however, that under a claims convention of the usual type specifying claims by nationals of each country against the government of the other, a respondent state might successfully invoke the rule concerning nationality against the United Kingdom's presentation of claims other than those of persons who were her nationals in the full municipal-law sense,[6]

and that 'the peculiar relationship which has continued to exist between the Commonwealth states even after they have become completely independent is not a particularist international law'. These are possible answers to the most important questions posed, but they are achieved without any evidence or reasoning. It is doubtful if it is even appreciated that they are crucial.

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[3] (1945) 70 C.L.R. 60.

[4] See p. 74.

[5] See p. 76.

[6] At p. 72.

Professor Spengler writes on 'The Commonwealth: Demographic Dimensions; Implications'. Your reviewer, approaching this paper as he did in abysmal ignorance of its subject, confesses to having been aroused to examine it in further detail. Leaving aside such minor points as the coining of *commonness* instead of *community* (of interests, etc.)[7]; the use of the phrase 'subjective solidarity'[8]; and 'and there is always danger that the distribution of the fruits of economic and cultural progress, which in a relatively homogenous society tends to be rapid and all-embracing, may, because of stratification consequent upon a population heterogeneity, be too unevenly channeled by dikes resembling those of caste'[9] which could surely have been more simply put, there are more serious matters which your reviewer would presume to question. The most serious of these are the following assumptions: (1) That 'educational and other value-propagating systems are quite limited in their capacities to diffuse . . . values among those who do not originally acquire them with familiar and closely related *milieus*'[10]; and (2) That the capacity of a population to carry a set of values abroad depends upon how many emigrants it can spare and upon how rapidly they increase.[11] Agreed that values adhere in individuals—it does not follow that an equal share of values inheres in each individual. It may be that these assumptions can be backed up by considerable evidence. It may be, indeed, that they are the common working hypotheses of demographers. Nevertheless, one must tend initially to doubt that which runs contrary to experience. And in an introductory paper, one is entitled to some explanation of the basis of radical assumptions such as these. Because of these doubts (which are underlined by such dogmatic statements as that of 'India, Pakistan, the Federation of Malaya, and Ceylon', 'at least the last is incapable of independent political survival') one suspects much of the rest of the paper. Finally, it is at least very arguable that naval-military ascendancy of the United Kingdom had waned prior to the first World War,[12] and it is not very helpful to be referred simply to the '*Year Book* of the Commonwealth of Australia', a series which runs into some scores of volumes, each of 1,000 pages more or less,[13]; 'enterprisers' is used as a replacement with no apparent overtones, for 'entrepreneurs'.[14]

The most useful paper in the book is that of Professor Godfrey on 'The Emergence of Ghana', a well-written, informative and interesting contribution. The value of this paper is considerably enhanced by the lack of any other concise and up-to-date account of the subject dealt with which is quite so easy to read. Professor Godfrey at least manages to put the picture over to us without resort to 'orientation-axes'.

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[7] See p. 86.
[8] See p. 87.
[9] At p. 101.
[10] At p. 87.
[11] See p. 87.
[12] See p. 89.
[13] See p. 101, n. 21. Cf. the reference to 'India's Year Book' at p. 106, n. 27.
[14] At p. 108. 'Entreprenurial' is nevertheless used adjectively on p. 117.

Of somewhat lesser value yet nevertheless useful in its way is Professor Ratchford's essay on 'The Development of Health and Welfare Programs in Australia: A Case Study'. There seems to be over-simplification in the statement that: 'In the British tradition, this means that in most cases an act of the Parliament would take precedence over any conflicting provision of the Constitution',[15] in that it fails to distinguish between the 'English' and the 'British' traditions. Such a distinction is only of importance in that Colonial legislatures of the type to which Professor Ratchford is referring can, in fact, bind their successors to a limited extent, *i.e.,* as to the manner and form in which legislation may be passed.[16] To this extent, therefore, it is possible to entrench. Yet this is a minor point. What is questionable about this contribution is not the fault of Professor Ratchford *qua* author. It is rather the fault of the compilers who saw fit to include it in an introductory volume to the Commonwealth.

The only questions which your reviewer sees fit to ask about Professor Brinley Thomas's contribution, 'The Evolution of the Sterling Area and its Prospects' are (1) whether, in discussing the evolution of the Sterling Area, more attention might profitably have been focussed on the role of the Bank of England in the nineteenth century, and (2) whether it might not have been more simply written. This latter point does little to detract from the paper as a brief history of Sterling, but does detract from its usefulness as an introduction to students who are presumably recent graduates in other fields. Whereas other papers, (*e.g.,* those of Professor Mansergh) have been successfully 'written down' for this purpose, one is left with the impression that Professor Brinley Thomas's paper might demand more of the reader than is justifiable considering the purpose of this book.

Thus, considered individually, the various papers are not all without merit. The main fault lies in the concept of the book, the lack of co-ordinated planning, and the seeming diversity of purpose of the papers. This appears nowhere more clearly than in the Preface, where brief outlines of the various contributions are given. One is led towards the conclusion that the compilers have decided to publish a book, collected together a number of papers and justified the compilation *ex post facto* by the extremely tenuous thread of *Commonwealth Perspectives*. Thus, in introducing the essays of Professors Godfrey and Ratchford, we are informed that 'they provide case studies which focus attention on two countries, the internal developments of which affect their ties as Commonwealth members'. Your reviewer cannot see how this is so in any particular sense. Nor is any attempt made to show how it is so. The conclusion seems almost inescapable that these (two of the better papers) were inserted as 'makeweights'.

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[15] At pp. 146-7.

[16] See A.-G. for New South Wales v. Trethowan [1932] A.C. 526.

It is pleasant, in conclusion, to be able to state that, apart from the footnotes the numbers of which are so annoyingly small as to be illegible, the book is well turned out and equipped with a spine that would adorn any display cabinet.

Harry Calvert.

COMPARATIVE LAW: CASES AND MATERIALS

By RUDOLPH B. SCHLESINGER

1950. Brooklyn, N.Y.: The Foundation Press Inc., xxxi and 552 pp. $8.00.

A word is presumably necessary at the very outset of this review to explain how it comes about that a book published in 1950 is reviewed nine years later. The explanation is quite simply that opportunities to review American publications in Australian periodicals are very limited, especially in recently founded Australian periodicals, so that when an opportunity presents itself and particularly when it takes the form of Schlesinger's *Comparative Law: Cases and Materials*, it is difficult to resist the temptation even after nine years.

The growth of Comparative Law has probably been one of the outstanding features in the development of legal studies over the last twenty-five years. The subject has, of course, a long history. The chair of Comparative Law at the College de France was established as early as 1832 whilst the Societe de Legislation Comparee was founded in 1869. In England the Quain chair of Comparative Law dates back to 1894, and the Society of Comparative Legislation to 1895, whilst by 1903 Sir Frederick Pollock had already written the history of Comparative Law.[1] Despite these early movements it is only the last quarter of a century that has witnessed the really striking development of the subject.

This development has been retarded, however, by an almost complete lack of agreement as to the connotation of the term 'comparative law'. The result is that each writer tends to ride off on his own particular hobby horse with the assumption, which is implicit if not explicit, that his is the right road. Thus the accumulation of an agreed body of knowledge has been slow. The main difficulty arises from that fact that, as expressed by Gutteridge:[2]

> If by 'law' we mean a body of rules it is obvious that there can be no such thing as 'comparative' law. . . . Not only are there no 'comparative' rules of law but there are no transactions or relationships which can be described as comparative.

Professor Schlesinger does not waste his space in indulging in further polemics as to the nature and objects of comparative law. His view as to the object of comparative law which he expresses by means of a paraphrase of some words of Professor Jessup is 'convey to the student "that modicum of understanding" and of familiarity with concept and terminology which will make it possible for him "really to grasp an opinion of

[1] 'History of Comparative Law' (1903) 5 J.C.L. (N.S.) 74.
[2] Comparative Law (2nd ed. 1946) p. 1.

local counsel".'[3] To this Professor Schlesinger would add the ability to write an understandable letter asking for such an opinion and the ability intelligently to choose, examine and cross-examine experts testifying as to foreign law. The purist may well object that this has nothing to do with comparative law *stricto sensu*, and from one point of view it must be admitted that it has not. The fact is, however, that the study of foreign law is really inseparable from and a necessary preliminary to comparative law. If two systems of law are to be compared clearly it is necessary to study two systems of law and for most students one of these will necessarily be a foreign system. Further, when a student trained in one system of law studies a foreign system comparison is more or less inevitable. Thus although the study of comparative law may in theory be distinguished from the study of foreign law, the distinction is one which has but little practical reality.

It is a misfortune that the imposing quadrisyllabic adjective is used to describe a most heterogeneous collection of studies of very unequal value ranging from the synoptic view of all the world's legal systems to the learned monograph setting out the differences and similarities between those legal systems known to the writer on some particular legal problem. Whilst the former provide an opportunity to display encyclopaedic learning the latter seem often to be little more than the result of the needs of the growing numbers of postgraduate students to satisfy university requirements for higher degrees—a process sometimes euphemistically referred to as research.

Professor Schlesinger avoids both the banalities of the former and the erudite uselessness of the latter by keeping the practical necessities of international legal practice firmly within his sights. He has thus produced one of the very few works bearing the title of 'comparative law' which can truly be described as useful.

As Professor Schlesinger himself points out, the major problem facing any one who attempts to deal with comparative law whether in a book or a course of lectures is that of selection. On this problem Professor Schlesinger displays a refreshing realism. Firmly rejecting the temptation to take account of the doubtless interesting customs of the Trobriand Islanders or the Dyaks, he excludes 'the native and religious laws of Africa and Asia' on the ground that he is only concerned with those legal systems with which his readers have the 'most significant human and commercial contacts'.[4] He excludes the law of Soviet Russia on the same ground. Although the exclusion of Soviet law may doubtless be justified we would question whether the reason given by Professor Schlesinger is really adequate. A very strong case could surely be made for the inclusion of Soviet law in a course of comparative law on the ground of human

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[3] At pp. x-xi, quoting from Jessup's foreword to Aglion's Dictionnaire Juridique Anglais-Francais (1947) p. 14.

[4] At p. xi.

and commercial contacts. The fact is that a line must be drawn somewhere and to add the Soviet Codes to those of France, Germany and Switzerland would have made the course and the book far too long.

Professor Schlesinger also excludes common law jurisdictions on the ground that there is enough common background to ensure that modicum of understanding which he is concerned to attempt to establish. It would clearly be quite unreasonable to expect Professor Schlesinger to add the common law jurisdictions to those with which he is already concerned, but we would submit that a comparative course based on common law materials from the various jurisdictions would be of great practical use and a perfectly legitimate subject upon which to base an introductory course in comparative law. How many English or Australian lawyers could really give an intelligible account of the American legal system and how many could really say to what extent the American branch of the common law family had diverged from the parent stock? It is certainly true that the English lawyer with but a single jurisdiction, on whom the hand of the nineteenth century still lies heavily, who still enjoys the pleasures of the 'orthodox wild goose chase for the *ratio decidendi*' and for whom the views of such writers as Fuller, Frank and Llewellyn are but academic indiscretions and those of Olivecrona and Hagerstrom completely unknown, are very different from those of their American cousins —by now many times removed—who, with their fifty jurisdictions, have more or less completely vacated the heaven of juristic conceptions. It would seem that Professor Schlesinger is assuming that English and Australian lawyers are as well informed regarding the American legal system as the Americans are regarding the English system—an assumption which we would question. After all, it is now nearly thirty years since Goodhart wrote:[5]

> At the present time it is almost as difficult for the English lawyer to understand the American theory of precedent as it is for him to understand the civilian, and that in place of two conflicting systems — the common law and the civilian — we are now faced with three different methods, the English, the American and the civilian. The American system at present lies closer to the English than it does to the civilian but the tendency seems to be for it to shift towards the latter.

And whatever may have been the trend over those thirty years it does not appear to have been towards a rapprochement of the English and American attitudes. To claim, however, that an interesting and valuable comparative law course could be built on purely common law materials implies no criticism of Professor Schlesinger's exclusion of such materials.

Having thus excluded the common law, Soviet law and the native and religious laws, Schlesinger is able to conclude that: 'A Comparative Law course thus becomes one seeking to convey some understanding of the mental processes of lawyers in the civil law world'.[6] He admits

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[5] 'Case Law in England and America' (1930) 15 Corn. L.Q. 173-4.

[6] At p xi.

that 'the difference *inter sese* among the various civil law systems are probably even more marked than the differences within the common law world',[7] and he selects the Codes of France, Germany and Switzerland as being the most influential within the civil law world. Again one cannot really quarrel with such a decision, although our preference would have been for still further limitation: in fact, for concentration upon but one system. Even admitting the difference between the various civil law systems it is surely true that, just as knowledge of one common law jurisdiction gives a sufficient modicum of understanding so knowledge of one civil law system gives an equally sufficient modicum of understanding. We would submit that concentration upon one system would enable a more coherent picture to be painted.

It is surely remarkable that although there has been such a striking development of 'comparative law' over the last twenty-five years there has been no corresponding development in the publication of books designed for students trained under the common law, setting out the main principles of the civil law jurisdictions.[8] The logical development, however, of the approach adopted by Schlesinger must surely be towards such works, for through such works that modicum of understanding will best be conveyed.

Acceptance of Professor Schlesinger's concentration upon the French, German and Swiss Codes does not end the question of the selection of materials. Within his own limitations the most striking feature of Schlesinger's selection is that he devotes over one hundred pages—nearly one fifth of the book—to the problem of the proof of foreign law in common law courts. He apparently feels that this needs some explanation and he justifies it on the ground that this 'is the door through which the practicing lawyer will ordinarily enter the shadowy room filled with the rules and principles of the civil law'.[9] This is doubtless true. The fact remains that this is a subject which is traditionally within the domain of private international law. This is, of course, no reason for not dealing with the subject in a course of comparative law, but to deal with it at such length, with a matter which is very largely duplication, and when the space and time available for matters which are more strictly germane to the main subject matter is so limited seems rather unnecessary. There is, of course, the additional argument that the subject is concerned neither with comparative law *stricto sensu* nor with the study of foreign law. The rules relating to proof of foreign law are rules of the municipal law of the forum, and a knowledge of them, however useful, will not in any way aid an understanding of the mental processes of lawyers in civil law countries.

Again, it is surprising to find, even in a book that was published in 1950, materials dealing with the purely transitory problems arising in Germany

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[7] At pp. xi-xii.

[8] The only well known books dealing with Continental legal systems seem to be Amos and Walton, Introduction to French Law (1935) and Schuster, The Principles of German Civil Law (1907).

[9] At p. xv.

after the end of World War II. These have their interest but the reviewer would personally have given such materials a rather low priority in an introductory course on comparative law.

The core of the book, however, is to be found in Part B dealing with some fundamental differences in sources and methods existing between the civil and common law countries. This occupies nearly half of the book and is an extremely valuable collection of materials and cases dealing with procedure, the organisation of the bar in civil law countries, the operation of the Codes with a short section on problems arising from language and classification differences.

In his third part the author selects a few illustrative problems drawn from those civil law problems which confront American practitioners. Four problems are selected: contracts; agency; corporations; and conflict of laws. This part of the work we found rather less satisfying than the earlier parts, largely on the ground that it seemed rather disjointed. This may be illustrated by considering the section on conflict of laws. The materials collected here comprise two short extracts from Rabel's *The Conflict of Laws: A Comparative Study* and one from Nussbaum's article in the *Yale Law Journal*, entitled 'Public Policy and the Political Crisis in the Conflict of Laws'.[10] One case is cited by cross-reference, that of the Brazilian Court of Appeals for Rio de Janeiro of 10th June, 1932, together with three articles from the French Civil Code and one from each of the German and Italian Civil Codes. These materials are linked by a few short notes and questions by the author. This does not really add up to very much and it is difficult to see quite what value could be derived from studying such limited materials.

The final part of the book is taken up with an extensive classified survey of articles on foreign and comparative law appearing in English language legal periodicals and covering the period 1929-1949.[11]

It is of course unlikely that any given selection of materials on comparative law would satisfy everybody, and to criticise selections made by others does little more than indicate that the author does not treat the subject in quite the same way as the reviewer would had he the ability to produce a work of comparable scope. Whether one agrees with Professor Schlesinger's selection of materials or not the fact remains that he has produced what is undoubtedly one of the most useful works on comparative law. Other editors will doubtless produce other selections of materials, but they will do well to take Professor Schlesinger as their model. The book is produced, of course, in a style that must always excite the admiration and envy of any Australian reviewer.

G. W. Bartholomew.

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[10] (1940) 49 Yale L.J. 1027.

[11] This section has now been rendered obsolete by the publication of Szladits, Bibliography on Foreign and Comparative Law (1955).

AGGRESSION AND WORLD ORDER

By JULIUS STONE, S.J.D. (Harv.), D.C.L. (Oxon.)
1958. Sydney: Maitland Publications, xiv and 225 pp. £2.

Over the past few years the world has witnessed acts of violence which have brought it near the brink of a third world war. In a number of cases the United Nations has been called upon to bring about a cessation of hostilities. In the debates, the word 'aggression' has been used, often indiscriminately, by the various contending parties and in such a way as to leave the impression that it is a word which is used in an emotive sense. In his new work, Professor Stone has undertaken the task of analyzing the notion of aggression in order to discover whether a definition of the notion is possible or will lead to fruitful results in the international sphere.

In the Introduction, the author indicates that his own view in this respect is pessimistic. He dissents from the opinion of those who believe that 'an advance definition of aggression, capable of yielding certainty of application in future contingencies is indispensable to human survival. . . .'[1] Throughout the work this basic position is maintained. Thus on page 17 we find the following statement: 'The call to define the notion by spelling out [the] criteria is far more than a mere call to clarify the meaning of a word in common usage. It is rather a concealed demand for international legislation on a formidable scale'. The author points out that international law lacks a legislature: in this respect it is fundamentally different from municipal law. Therein lies the basic distinction between the two orders. A municipal tribunal can adjudicate on a case of assault without adjudicating in the full context of the relations between parties, because other organs of a legislative, executive or judicial nature exist which can effect final justice between the parties. However, in international law no such organs exist for the purpose of achieving complete justice and so it is that the 'imperatives of justice' remain embedded in the very notion of aggression.[2] The conclusion which the author draws from this situation is that the word 'aggression' cannot be defined by simple criteria—that the word is bound up with ethical and sociological values relating to state action.[3]

This argument is developed throughout the book It is clear that in the eyes of the author the major consideration is of a sociological nature and rests on a judgment about the present state of international organization. If one attempts to construct a definition, especially an enumerative-type definition (*i.e.*, listing the particular circumstances to which the taint of aggression will attach), there is a danger that guilty acts will be exonerated and innocent acts branded.[4] In effect, the notion will be asked 'to perform within the monstrously wide ambit of all interstate relations,

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[1] At p. 4.
[2] See p. 18.
[3] See p. 19.
[4] See p. 90.

most of the major tasks of criminal and constitutional law, not to speak of much of the law of property, torts and procedure'.[5] If one takes, for example, a definition based on the principle of 'the first act' (*i.e.*, that state is guilty of aggression whose troops are the first to cross the border) one is in effect sanctifying the *status quo*. A *status quo* may rest on the commission of an unjust act in the past. The author points out that the proposal for a definition of this nature may be compared with a proposal that in municipal law the only law which should be enforced is one forbidding physical trespass against the realty or person of another.[6] Therefore, in his opinion, there can be no theory of aggression 'except as part of the theory of the rights of States *de lege ferenda* as well as *lata*. . . .'[7]

This argument seems cogent, but it is, I suggest, open to debate as to its two main points. In the first place, if one looks at the historical development of municipal legal systems, especially the common law system, one finds that the law in its early stages is primarily concerned with the prevention of acts of violence. Trespass is in effect one of the earliest actions to develop. It is only later than contract and tort become separate compartments of the law. It seems to me to be permissible to regard international law today as in an early stage of development. Before methods of settling all disputes and enforcing all rights can be devised we have to deal with the most important question—international violence.

In the second place, if we admit that a definition of aggression is desirable and a task which should be persisted with, we are not thereby turning our backs on the other important questions. We can still work for the development of international processes by which the causes of emnity and disagreement between the states can be settled. In the meantime we must perfect the rules whereby international violence can be prevented or at least reduced to a minimum. The failure of successive United Nations committees to find a suitable definition of aggression should not discourage us.

Professor Stone has a different plan. In the latter part of his work he expresses the opinion that our task should be to work through the 'breach of the peace' provisions of the United Nations Charter and to channel the energies of the members of the United Nations Organisation in the direction of arresting breaches of the peace. In this respect, he believes that the fear of thermo-nuclear war will provide ample incentive.[8] However, before there can be any concerted action among the members of the United Nations the practice of bloc-voting will have to disappear.[9]

Even here, however, a question of definition arises: 'What is a breach of the peace?' It may well turn out that in each case in which the United Nations is called upon to take action an act of aggression will be found

[5] At p. 130.
[6] See p. 71.
[7] At p. 86.
[8] See p. 158.
[9] See p. 161.

to exist. It may be objected to this that the action of the United Nations in relation to the Suez crisis indicates that its members can take action to terminate hostilities without resort to the concept of aggression. This, however, does not deprive of validity an argument to the effect that a proper (not necessarily 'closed') definition of aggression would make the task of the Assembly in securing compliance with its recommendations much easier when a future case arises. Moreover, it would acquaint the belligerent parties with their rights and duties from the outset (at least in so far as a 'core' situation is concerned and quite probably in 'penumbral' cases).

In the final chapter of his work, the author touches upon certain philosophical problems. He rejects the 'idealist' belief that only a recognition of firm principles of justice will lead to international order — such firm principles are hard to come by.[10] He advocates a course of moderation which does not call for the abandonment of any nation's version of justice but only for a surrender of that part of it which is necessary to bring about the survival of the world.[11]

It does not seem to me, however, that a certain concept of international justice (beyond that encompassing mere survival) must be worked out if we are to have a lasting peace in the world of tomorrow. True, we must pay attention to the practical concerns of today, and these, while often of an organizational or technical nature, are certainly important. Yet we must also strive to bring a recognition among the peoples of the world of a common fund of basic principles. This, at least to me, sums up the meaning of the word 'communication'. Without the existence of an international ethic, organizational and practical solutions in the international sphere will merely give us a temporary respite.

Aggression and World Order is a stimulating book. It is well-documented and the discussion of aggression is placed in an historical perspective. It is to be hoped that the important questions raised will be further explored by students of international law and international relations.

R. D. Lumb.

THE COMMONWEALTH PUBLIC SERVICE

By LEO BLAIR

1958. Melbourne: Melbourne University Press, vii and 78 pp. 9s. 6d.

The object of the book is to provide the student of public administration with 'some basic data which he has hitherto been able to obtain only by reference to a wide range of articles, reports and other documents not always readily available' and thus to avoid the waste of lecture time involved in giving detailed factual background information.

It is unfortunate that, quite apart from serious disagreement with the author on matters of interpretation and of emphasis, one should find

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[10] See pp. 168-9.

[11] See p. 183.

errors of fact on almost every page. Mr. Blair gets off to a bad start by listing among the ordinary functions of the Commonwealth Public Service the sale of dog licences and the registration of births. There follows shortly a misleading account of the 'top-level administrative structure of departments' in which the private secretary to the minister is given the inflated role of 'acting as a link between the minister and the senior permanent officer of the department', while many permanent heads would be distressed to find their minister working with them on 'all matters relating to the . . . day to day administration of the department' (although this is put right in the first sentence of Chapter 3). On p. 10 we are led astray on the subject of the Treasury, the importance of which is sadly underrated; on p. 17 the Australian Broadcasting Control Board is wrongly said to provide sound broadcasting and television stations; and on pp. 23-25 we are badly misled about the work of the Public Service Board (probably because an attempt has been made to condense the relevant statutory provisions without fully understanding their implications), but here also some of the errors are put right in later references. On p. 33 the Promotions Appeal Committee make one appearance as 'Promotion Appeal' and two as 'Promotion Appeals', and, in fact, in the eleven pages devoted to 'Staff' there will be found to be an error, omission, or unsatisfactory generalisation of some kind in almost every paragraph. One further example must suffice, that of graduate recruitment under section 36A of the Public Service Act, which is limited to ten per cent. of the proposed intake of clerical staff for the year. Mr. Blair states: 'as the Board finds it impossible to recruit sufficient clerical staff, the graduate figure can, in fact, be much higher than this percentage'. The Board, however, in its Report for 1957-58, refers to the disappointingly small number of graduate appointments under this section, which works out at just over one per cent. of the recruits to base range clerical positions.

Mr. Blair's view of the relative importance of the different aspects of his subject is a peculiarly personal one. If we may judge this by the simple criterion of the amount of space devoted to each topic, he is less impressed by the effects upon the service of the 'returned soldier' recruitment system than by the fact that the Solicitor-General was a university professor; the private secretary to the minister runs the senior permanent officers of the department very close; and against the Auditor-General's three lines we must set two paragraphs devoted to 'a number of important agencies' comprising the Historic Memorials Committee, the Art Advisory Board, and the Commonwealth Literary Fund.

'Controversial topics' such as ministerial-departmental relations, the policy-making role of the public servant, and the recruitment needs of a large-scale modern bureaucracy are not considered, we are informed, owing to the limited purpose of the work. Mr. Blair's decision to set his face against evaluation is to be deplored on principle; but what then are we to think of his final chapter, 'The Problem of Bureaucracy', which carries the style of the earlier chapters to a crescendo in a welter of generalisation and mis-statement upon the controversial topic of 'abuse

of power', with particular reference to delegated legislation and administrative tribunals?

The author's difficulties in this unhappy work are partly inherent in its method of preparation. He has relied, in his descriptive section, largely upon *The Federal Guide*, the Public Service Act, and various publications of the Public Service Board, such as their Administrative Training Documents which are used in induction courses for recent entrants to the Service. But it is virtually impossible for an outsider to understand the workings of the Service by a sorting of this material alone. One would at least require to discuss its significance, at every step, with experienced public servants; and even there the resultant work would be less than adequate unless the author had developed through long acquaintance a 'feel' for the spirit of the organization under study.

One shares, at the end, the hope expressed by the author in his preface, that this book 'will lead to more comprehensive publications on the part of those more fitted to the task.'

Gilbert Lithgow.

CHURCH AND STATE IN ITALY, 1947-1957

By LEICESTER C. WEBB

1958. Melbourne: Melbourne University Press, x and 57 pp. 8s. 6d.

In a lucid and impartial account Professor Webb tells of the relations between Church and State in post-war Italy. He underlines the difficulties to which this relationship is subject because of the inconsistent provisions of the Constitution and the dual character which the Church possesses in Italy.

Even to one as ignorant of Italian internal politics as your reviewer, the issues are made clear and the background filled in briefly and clearly without completeness being sacrificed in any apparent way.

The difficulties which Professor Webb highlights arise primarily from the fact that Article 7 of the Constitution incorporates by reference the Lateran Pacts into the Constitution and recognizes the Church as sovereign 'in its own sphere'. This 'sphere' is nowhere defined and thus the Church has an undefined sphere of sovereignty within the State itself, as well as being an independent foreign sovereign under the Lateran Treaty.

Insoluble as such a difficulty may be, it is no more difficult of solution than those arising from the conflicting provisions of the Constitution. The provisions of the Lateran Treaty and the Concordat give to the Church privileges within the Italian State which cannot be reconciled with the 'religious freedom' and 'religious equality' given by the Constitution, in which the Lateran Pacts are now embodied. Professor Webb does not suggest a remedy for these difficulties. He merely shows how they have been, and are, accentuated by the existence of other problems.

A Constitutional Court has been set up. But the very idea of judicial review of legislation, so familiar to those of us who live in a Federal State, appears incomprehensible to tne Italian. Certain incidents indicate that many Italians would interpret any ruling of the Constitutional Court which attempts to find a way out of the impasse as a political decision in favour of whatever party benefits from the decision.

Other difficulties can be found in the lack of experience which the Italian judiciary possesses in interpreting a written constitution, and the fact that the Lateran Pacts presupposed the existence of a Fascist-type State and were originally implemented by legislation of an essentially Fascist nature. These create real problems in a Republican State with a badly-drafted Constitution.

Church and State in Italy, 1947-1957 is an admirable little handbook dealing with a small field of interest to the lawyer (particularly the constitutional lawyer) as well as the student of political science.

P. G. Nash.

AN INTRODUCTION TO AMERICAN ADMINISTRATIVE LAW

By BERNARD SCHWARTZ, LL.M. (Harv.), Ph.D., LL.D. (Cantab.)

1958. London: Sir Isaac Pitman & Sons Ltd.; New York: Oceana Publications Inc., xv and 260 pp. £3-15-0.

This book is a comparative exposition of American administrative law for the British reader. Thus to the reviewer its effect strikes rather at a tangent, for the book compares the American law on the subject with that which has grown up in the British Welfare State. Its relevance to the Australian situation, therefore, is oblique, despite the pertinence of much of the actual contents—a contents which has been devised and moulded to be read and digested in a very different setting from the Australian.

In his preface, Professor Schwartz observes that: 'a comparative presentation must focus on elementary fundamentals and be written in a lucid style for outsiders who have no detailed knowledge of the system described.' This is both the vice and the virtue of the book. American techniques of control over administrative bodies are described and related to the British experience rather than analysed. It is informative to the English administrative lawyer — and to the Australian, except that his information is derived from listening at the key-hole rather than by being a party to the conversation. But there is insufficient appraisal of the whys and wherefores of the American techniques and still less critical analysis of their functioning.

We are told the principles of the engine, and its working is described; some of its faults are compared with those of the British product. Each has its own peculiar quirks. One is perhaps more economical to run, the other functions better in heavy traffic. The controls are different and mounted in different places.

There is the temptation, however, to ask, 'So what?' For the English reader the comparison is, perhaps, interesting and relevant — even so, a discussion of what variation of the two machines would produce the most satisfactory composite machine would have been valuable, as would some reference to an arbtrarily chosen absolute. For the Australian reader, the only interest lies in the little information about the American system which he can glean—almost incidentally—from the comparisons made.

The book is of interest to the student of administrative law and to the student of comparative law. It could have been more interesting, particularly for the Australian to whose background it is not related. An informative book, but not stimulating.

P. G. Nash.

PUBLICATIONS RECEIVED

(Inclusion in this list does not preclude subsequent review)

'The Law of AWOL', by Alfred Avins. 1957. New York: Oceana Publications Inc. xxxi and 288 pp. $4.95.

'Cases and Materials on International Law', by Edwin D. Dickinson. 1950. Brooklyn: The Foundation Press Inc. xxix and 740 pp. $9.00.